

House File 2379 - Introduced

HOUSE FILE 2379
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2157)

A BILL FOR

- 1 An Act relating to expunging certain criminal records.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 907.1, Code 2011, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 2A. "*Expunged*" means the court's criminal
4 record with reference to a deferred judgment has been
5 segregated in a secure area or database which is exempted from
6 public access.

7 Sec. 2. Section 907.4, Code Supplement 2011, is amended to
8 read as follows:

9 **907.4 Deferred judgment docket.**

10 1. A deferment of judgment under section 907.3 shall be
11 entered promptly by the clerk of the district court, or the
12 clerk's designee, into the deferred judgment database of the
13 state, which shall serve as the deferred judgment docket. The
14 deferred judgment docket shall be maintained by the state court
15 administrator and shall not be destroyed. The docket shall
16 contain a permanent record of the deferred judgment including
17 the name and date of birth of the defendant, the district court
18 docket number, the nature of the offense, and the date of the
19 deferred judgment. Before granting deferred judgment in any
20 case, the court shall search the deferred judgment docket and
21 shall consider any prior record of a deferred judgment against
22 the defendant.

23 2. The permanent record provided for in this section
24 is a confidential record exempted from public access under
25 section 22.7 and shall be available only to justices of the
26 supreme court, judges of the court of appeals, district judges,
27 district associate judges, judicial magistrates, clerks of the
28 district court, judicial district departments of correctional
29 services, county attorneys, the department of public safety,
30 and the department of corrections requesting information
31 pursuant to this section, or the designee of a justice, judge,
32 magistrate, clerk, judicial district department of correctional
33 services, or county attorney, or departments.

34 Sec. 3. Section 907.9, subsection 4, Code 2011, is amended
35 to read as follows:

1 4. At the expiration of the period of probation if the
 2 fees imposed under section 905.14 and court debt collected
 3 pursuant to section 602.8107 have been paid, the court shall
 4 order the discharge of the person from probation. If portions
 5 of the court debt remain unpaid, the person shall establish a
 6 payment plan with the clerk of the district court or the county
 7 attorney prior to the discharge. The court shall forward to
 8 the governor a recommendation for or against restoration of
 9 citizenship rights to that person upon discharge. A person
 10 who has been discharged from probation shall no longer be
 11 held to answer for the person's offense. Upon discharge
 12 from probation, if judgment has been deferred under section
 13 907.3, the court's criminal record with reference to the
 14 deferred judgment, any counts dismissed by the court, which
 15 were contained in the indictment, information, or complaint
 16 that resulted in the deferred judgment, and any other related
 17 charges that were not contained in the indictment, information,
 18 or complaint but were dismissed, shall be expunged. The record
 19 maintained by the state court administrator as required by
 20 section 907.4 shall not be expunged. However, the court's
 21 record shall not be expunged until the person has paid the
 22 restitution, civil penalties, court costs, fines, fees, or
 23 other financial obligations ordered by the court or assessed
 24 by the clerk of the district court in the case that includes
 25 the deferred judgment. The expunged record is a confidential
 26 record exempt from public access under section 22.7 but shall
 27 be made available by the clerk of the district court, upon
 28 request and without court order, to an agency or person granted
 29 access to the deferred judgment docket under section 907.4,
 30 subsection 2. The court's record shall not be expunged in any
 31 other circumstances unless authorized by law.

EXPLANATION

33 This bill relates to expunging certain criminal records.

34 The bill defines "expunged" to mean the court's criminal
 35 record with reference to a deferred judgment has been

1 segregated in a secure area or database exempt from public
2 access.

3 The bill specifies that the state court administrator shall
4 maintain the deferred judgment docket which shall not be
5 destroyed.

6 Under the bill, upon the discharge of a person on probation
7 for a deferred judgment, the court's criminal record of any
8 counts dismissed by the court, which were contained in the
9 indictment, information, or complaint that resulted in the
10 deferred judgment, and any other related charges that were not
11 contained in the indictment, information, or complaint but were
12 dismissed, shall be expunged in the same manner as the record
13 of the deferred judgment is expunged.

14 However, the bill specifies that the court's record shall
15 not be expunged until the person has paid the restitution
16 costs and fees assessed in the case that includes the deferred
17 judgement.

18 The bill also specifies that an expunged record is a
19 confidential record exempt from public access under Code
20 section 22.7 but shall be made available by the clerk of the
21 district court, upon request and without court order, to an
22 agency or person granted access to the deferred judgment docket
23 under Code section 907.4.